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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,266	03/12/2004	Julian R. Rogers JR.	BWT3003-0032	5862
39083 7590 05/09/2007 CERMAK & KENEALY, LLP 515 EAST BRADDOCK RD SUITE B Alexandria, VA 22314			EXAMINER MOHANDESI, JILA M	
			ART UNIT 3728	PAPER NUMBER
			MAIL DATE 05/09/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/798,266

Applicant(s)

ROGERS, JULIAN R.

Examiner

Jila M. Mohandesi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-7, 9-18 and 44-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 9-18 and 44-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-2, 5-7 and 9 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka (US patent no. 6,629,777). Tanaka '777 discloses an equipment shipping device (see figures 1-16 embodiments), comprising: an inflatable bladder in the form of a pouch that is configured to fit within a standard case; a plurality of baffles located at predetermined locations in the bladder such that when the bladder is inflated, the shipping device takes the form of the standard case's interior volume when placed therein; and a valve located adjacent the inflatable bladder wherein the bladder includes a front side attached to a rear side by a hinge portion (see figures 4-6 embodiments).

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With respect to the size and thickness of the pouches, it would have been an obvious matter of design choice to modify the size and thickness of the pouches, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

The equipment shipping device of Tanaka '777 is capable of enclosing flexible endoscope equipment.

4. Claims 10-12, 14-16 and 18 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over rejected under 35 U.S.C. 103(a) as being unpatentable over Schumacher (US patent 4,917,238) in view of Dickinson. Schumacher '238 discloses an equipment shipping kit, comprising: a first pouch (53); a primary pouch (pouch 60 with press locked end 61) including an open end having a seal and a return pouch (54) including an open end having a seal; and a plurality of caps (65, 68) configured to be placed over portions of the equipment to protect the pouch during shipment of the equipment. Schumacher '238 does not appear to disclose the pouches to be formed by at least one inflatable bladder including, a plurality of baffles, and a valve located adjacent to the inflatable bladder. Dickinson discloses that it is desirable to make pouches formed by at least one inflatable bladder (80) including, a plurality of baffles, an opening located at an end of said return pouch, and a valve located adjacent to the inflatable bladder to better protect articles held therein. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the pouches of Schumacher '238 from at least one inflatable bladder (80) including, a

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plurality of baffles, and a valve located adjacent to the inflatable bladder as taught by Dickinson to better protect the articles held therein.

Would respect to the kit also including a secondary pouch similar to first pouch, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide additional pouches to the kit of Schumacher '238, since it has been held that mere duplication and rearranging of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. V. Bemis Co.*, 193 USPQ 8 and *In re Einstein*, 8 USPQ 167.

With respect to the size and thickness of the pouches, it would have been an obvious matter of design choice to modify the size and thickness of the pouches, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

With respect to claims 14 and 15, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

5. Claims 10-12 and 14-18 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Schumacher (US patent 4,917,238) in view of Tanaka et al. (US patent no. 6,629,777). Schumacher '238 discloses an equipment shipping kit, comprising: a first pouch (53); a primary pouch (pouch 60 with press locked end 61) including an open end having a seal and a return pouch (54) including an open end having a seal; and a plurality of caps (65, 68) configured to be placed over portions of

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the equipment to protect the pouch during shipment of the equipment. Schumacher '238 does not appear to disclose the pouches to be formed by at least one inflatable bladder (80) including, a plurality of baffles, an opening located at an end of said return pouch, and a valve located adjacent to the inflatable bladder. Tanaka'777 discloses that it is desirable to make pouches formed by at least one inflatable bladder (80) including, a plurality of baffles, and a valve located adjacent to the inflatable bladder to better protect articles held therein. The pouch includes an adherence portion located at one end of the top portion and the bottom portion such that the pouch is folded along a hinge, the top portion and bottom portion can be adhered to each other to form a containment area between the top portion and bottom portion. See Figures 1-16 embodiments. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the pouches of Schumacher '238 from at least one inflatable bladder (80) including, a plurality of baffles, and a valve located adjacent to the inflatable bladder as taught by Tanaka '777 to better protect the articles held therein.

Would respect to the kit also including a secondary pouch similar to first pouch, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide additional pouches to the kit of Schumacher '238, since it has been held that mere duplication and rearranging of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. V. Bemis Co.*, 193 USPQ 8 and *In re Einstein*, 8 USPQ 167.

With respect to the size and thickness of the pouches, it would have been an obvious matter of design choice to modify the size and thickness of the pouches, since

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such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

With respect to claims 14 and 15, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

6. Claims 13 and 44-50 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the above references as applied to claim 10 and further in view of Addy et al. (US 6,594,971). Schumacher '238 as modified above discloses all the limitations of the claims except for the pouch containing a medical scope device. Addy discloses that it is desirable to store medical endoscopes in pouches which allows an endoscope to be sterilized therein and subsequently be stored in an uncoiled configuration by hanging over a peg while still in the package. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an endoscope in the pouch of Schumacher '238 as taught by Addy which allows an endoscope to be sterilized therein and subsequently be stored in an uncoiled configuration by hanging over a peg while still in the package.

#### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-2, 5-7, 9-18 and 44-50 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jila M Mohandesi  
Primary Examiner  
Art Unit 3728

JMM  
May 04, 2007